

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF ILLINOIS

In re:

WHITE STAR LINE, LLC

Debtor.

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Case No. 14-30048

Chapter 11

14-126-JPG

REGIONS BANK'S MOTION TO WITHDRAW THE REFERENCE
TO THE UNITED STATES BANKRUPTCY COURT

Comes now Regions Bank (“Movant”), by counsel, and for its motion to withdraw the reference under 28 U.S.C. § 157(d) and Local Rule Br1001.1 of the United States District Court for the Southern District of Illinois, respectfully states as follows:

1. This case was transferred from the District of Delaware to the Southern District of Illinois on January 16, 2014, and was referred to the United States Bankruptcy Court for this District.

2. Movant, Regions Bank, is the holder of a claim secured by a lien on a vessel now known as the “White Star One” (the “Vessel”), and formerly known as the “Casino Queen,” now berthed at Mike’s, Inc., 3891 Canal Way, Wood River, IL 62024, approx. mile 198.8, Upper Mississippi River.

3. Movant’s lien was perfected by registration of a Preferred Ship Mortgage in the appropriate office of the United States Coast Guard.

4. The Vessel is in the custody of the United States Marshal for the Southern District of Illinois under admiralty law pursuant to an order issued by the United States District Court for the Southern District of Illinois in the case, *Mike’s Inc. v. Vessel White Star One et al.*, case no. 3:13-cv-00232-DRH-DGW (the “Admiralty Case”).

5. Debtor filed this chapter 11 case in the District of Delaware on November 14, 2013, in order for forestall the sale of the Vessel by the United States Marshal on November 15, 2013 pursuant to an Order entered in the Admiralty Case.

6. Debtor has no income and the Vessel is its only material asset, unless investigation turns up avoidable transfers that can be recovered for the benefit of creditors. If this case is to continue in chapter 11, it appears the only option available to Debtor is to sell the Vessel free and clear of liens.

7. There is uncertainty in the law concerning jurisdiction over a vessel and the treatment of liens, especially maritime liens, when a vessel's owner attempts to sell the vessel pursuant to the Bankruptcy Code but the vessel has previously been arrested and is in the custody of the U. S. Marshal pursuant to an Order of the U. S. District Court. Such an open question may render doubtful the efficacy of any bankruptcy sale of the Vessel that purports to be free and clear of such liens, thus reducing the amount that third parties may be willing to bid at a bankruptcy sale to the prejudice of creditors. See, e.g., *In re Millennium Seacarriers, Inc.*, 419 F.3d 83, 94, 96 (2d Cir. 2005) (stating in dictum at 94, "The doctrine of *custodia legis* has typically been invoked to resolve this apparent conflict . . . [T]he court that first secures custody of the property administers the property.")

8. Resolution of the issues concerning the Vessel in this Chapter 11 case require consideration of both Title 11, U. S. Code (Bankruptcy Code) and the law of admiralty, including without limitation Title 46, U. S. Code, Chapter 313 (Maritime Liens), and the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions. These laws regulate organizations and activities that affect interstate commerce, including the Debtor in this case.

9. Pursuant to 28 U.S.C. § 157(d), "The district court shall, on timely motion of a party, so withdraw a proceeding [from the bankruptcy court] if the court determines that resolution of the proceeding requires consideration of both title 11 and other laws of the United States regulating organizations or activities affecting interstate commerce."

10. It is submitted that pursuant to above statutory language, the need to consider both bankruptcy and admiralty law in connection with the sale of the Vessel and proper payment of the proceeds of such sale invokes mandatory withdrawal of the reference of this Chapter 11 case.

11. In the alternative, pursuant to 28 U.S.C. § 157(d), "The district court may withdraw, in whole or in part, any case or proceeding referred to under this section, on its own motion or on timely motion of any party, for cause shown."

12. It is submitted that the possible chilling effect of the uncertain interplay of bankruptcy and admiralty law in the circumstances of this case constitutes "cause" to withdraw the reference of this Chapter 11 case, at least insofar as the sale of the Vessel and proper distribution of the proceeds are involved.

13. Moreover, the United States District Court had presided over the Admiralty Case for several months before the filing of the Chapter 11 case and is familiar with many of the facts involved. Judicial economy would be served by withdrawing the reference from the U. S. Bankruptcy Court and allowing the U. S. District Court to preside over the Chapter 11 case through and including the sale of the Vessel and proper distribution of the proceeds thereof.

14. Any matters remaining in the Chapter 11 case after the sale of the Vessel may be adjudicated by re-referral, if appropriate, to the U. S. Bankruptcy Court.

WHEREFORE, Regions Bank prays that the referral to the United States Bankruptcy Court be withdrawn, and for such further relief as is just and proper.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing motion and attachments were served electronically upon the Debtors' counsel, and the U.S. Trustee, according to the Court's electronic notice procedures, and that a further copy was mailed by U.S. Mail, postage prepaid, this 17th day of January, 2014, to all others of the following persons who do not participate in the ECF notification.

/s/ James S. Cole

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